

REMARKS

Applicant has cancelled claims 1-8 without prejudice. Applicant has amended claim 9 to delete the language “to increase the capability of . . .” and changed the base claims of claim 12 from 1-6 to 9-11. Applicant has further amended claim 9 to limit the recited yeast strain to *Saccharomyces cerevisiae* Hansen IFFI1335. Applicant has added new claims 14 and 15, which differ from cancelled claims 7 and 8 only in the preamble – new claims 14-18 are method claims, while cancelled claims 7 and 8 were matter-of-composition claims. New claims 14 and 15 are supported by the specification and claims 1-9 as originally filed. No new matter has been introduced by the amendments.

Claims 9-15 are now pending. Applicant requests reconsideration of the application in view of the claim amendments and the following remarks.

Rejection Under 35 U.S.C. § 112, First Paragraph

Claims 9-13 stand rejected for lack of enablement. Specifically, the Examiner contends that the specification, while being enabling for methods of preparing and administering *Saccharomyces cerevisiae* Hansen IFFI1335 for treatment of epilepsy, does not reasonably provide enablement for all *Saccharomyces* species. In the sole interest of advancing prosecution, applicant has limited the scope of yeast strains in base claim 9 to the IFFI1335 strain without addressing the merit of the rejection. Thus, the instant rejection should be withdrawn. Applicant reserves the right to pursue claims of the original scope in a continuing application.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 12 and 13 stand rejected as being indefinite. The Examiner contends that those claims are “indefinite in the nature of the ‘yeast cells’ of the plurality used are being compared in the last phrase of the claims” (Office Action, p. 5).

There is no mention of “yeast cells” or comparison of cells in claims 12 and 13. Further, the language that is deemed indefinite in claim 1 – “capability” – has been deleted from base claim 9. Thus, the instant rejection should be withdrawn.

Claims 9-15 Are Free of Prior Art

The Office Action raises several prior art and double patenting rejections. They are all directed to claims that have now been cancelled. Applicant submits that the currently pending claims, all method claims, are free of prior art.

CONCLUSION

Applicant submits that the application as amended is in condition for allowance, and early, favorable action is solicited.

Respectfully submitted,



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